

**BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

In the Matter of the Investigation into Black     )  
Hills/Kansas Gas Utility Company, LLC, d/b/a     ) Docket No. 21-BHCG-334-GIG  
Black Hills Energy, Regarding the February     )  
2021 Winter Weather Events as Contemplated     )  
by Docket No. 21-GIMX-303-MIS                     )

**NOTICE OF FILING OF STAFF'S REPORT AND RECOMMENDATION**

The Staff of the Kansas Corporation Commission (Staff and Commission, respectively) hereby submits a Report and Recommendation (R&R) dated November 2, 2022, recommending the Commission approve Black Hills' Application to approve an exemption from the Winter Storm Uri surcharge for any Large Volume Interruptible (LVI) customers that serve exclusively irrigation load. Staff recommends that these customers be required to attest, via legal affidavit, that they qualify for this exemption. Thereafter, for the duration of the Winter Storm Uri surcharge, customers that wish to remain exempted from this charge should be required to renew this attestation in order to confirm that they have not added any non-irrigation customers to their load.

WHEREFORE, Staff respectfully requests that the Commission issue an order adopting its recommendations.

Respectfully Submitted,

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## **REPORT AND RECOMMENDATION UTILITIES DIVISION**

**TO:** Dwight D. Keen, Chair  
Susan K. Duffy, Commissioner  
Andrew J. French, Commissioner

**FROM:** Justin Grady, Chief of Revenue Requirements, Cost of Service, and Finance  
Jeff McClanahan, Director of Utilities

**DATE:** November 2, 2022

**SUBJECT:** Docket No. 21-BHCG-334-GIG – In the Matter of the Investigation into Black Hills/Kansas Gas Utility Company, LLC, d/b/a Black Hills Energy, Regarding the February 2021 Winter Weather Events as Contemplated by Docket No. 21-GIMX-303-MIS

### **EXECUTIVE SUMMARY**

On July 21, 2022, Black Hills/Kansas Gas Utility Company, LLC (Black Hills Energy or Black Hills) filed an Application seeking permission to revise its current Winter Storm Uri Gas Surcharge to exclude Large Volume Interruptible (LVI) customers who transport gas exclusively to Irrigation customers. Black Hills explains that this requested change is consistent with the principle of the Settlement Agreement approved by the Commission on January 27, 2022, in that it exempts irrigation customers (albeit through the exclusion of LVI customers that serve irrigation customers) from paying the Winter Storm Charge given that there was no gas usage by irrigation customers during the extremely cold temperatures between February 7-19, 2021. Additionally, Black Hills requests that this exemption not harm any other customer class, as the rate change necessary to implement this exemption will only be recovered by other LVI customers. The rate change to accomplish this exemption results in a \$.026/dth increase for other LVI customers. Lastly, Black Hills is not requesting that this exemption be applied retroactively, but prospectively for the remainder of the collection period. Staff supports this requested change because it is consistent with the principle of the Settlement approved by the Commission and because the rate changes necessary to effectuate this exemption are recovered solely from the other members of the LVI class. Accordingly, Staff recommends approval of Black Hills' Application.

### **BACKGROUND:**

On June 16, 2021, Black Hills proposed its Winter Storm Uri cost recovery plan to minimize the financial impact of this recovery on customers. The essence of Black Hills' plan was to spread the

costs over a five-year period, with carrying charges necessary to effectuate the longer recovery period. The allocation of costs to customer classes was determined by the proportion of customer class usage for the month of February 2021, excluding the Irrigation rate class. A unanimous Settlement Agreement was filed on November 9, 2021, and was approved by the Commission on January 27, 2022. Subsequent to Commission approval of the Settlement Agreement, Black Hills became aware that some LVI customers served exclusively irrigation customers, and thus shouldn't be assessed the Winter Storm Uri charges, consistent with the cost causation principles inherent in the Settlement Agreement approved by the Commission. Black Hills filed this request to exempt LVI customers (who serve exclusively irrigation customers) on July 21, 2022.

### **ANALYSIS:**

Staff agrees with Black Hills request to exempt LVI customers who serve exclusively irrigation load from the Winter Storm Uri charges. This exemption is reasonable and appropriate given that all parties to the cost recovery plan Settlement Agreement agreed with the reasonableness of excluding the Irrigation rate class from the Winter Storm Uri charges. Additionally, Black Hills' requested change will not affect other customers outside the LVI rate class, and customers within the LVI rate class will not experience an extraordinary increase in their Winter Storm Uri charges. In order to effectuate this exemption, the LVI rate will need to increase from \$.039091 per therm to \$.041656 per therm, an increase of \$.026/dth.

While Staff supports this exemption, the Application leaves some question as to the details of how Black Hills will administer and track this over time. Specifically, we question how Black Hills will identify these customers initially, and how Black Hills will ensure that customers with this exemption don't change the character of their service to include non-irrigation customers at a later date.

To provide certainty for Black Hills and its customers, we recommend that Black Hills require each LVI customer that wishes to be exempted from the Winter Storm Uri surcharge to attest, via a legal affidavit, that it serves only irrigation customers at this time. We also recommend that this attestation be updated at least once every calendar year, or whenever Black Hills detects a change in an LVI customer's load characteristics that might indicate a non-irrigation customer has been added to the LVI customer's load.

### **RECOMMENDATION:**

Staff recommends the Commission approve Black Hills Application to approve an exemption from the Winter Storm Uri surcharge for any LVI customers that serve exclusively irrigation load. These customers should be required to attest, via legal affidavit, that they qualify for this exemption. Thereafter, for the duration of the Winter Storm Uri surcharge, customers that wish to remain exempted from this charge should be required to renew this attestation in order to confirm that they have not added any non-irrigation customers to their load.

## **CERTIFICATE OF SERVICE**

21-BHCG-334-GIG

I, the undersigned, certify that a true and correct copy of the above and foregoing Notice of Filing was served via electronic service this 2nd day of November, 2022, to the following:

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